



**US Army Corps  
of Engineers**<sup>®</sup>  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

**Date:** October 12, 1999

**Comment Period Ends:** November 11, 1999

**File Number:** 199901610

**In Reply Refer To:** Greg Penta, Regulatory Branch  
or by e-mail to: [gregory.r.penta@usace.army.mil](mailto:gregory.r.penta@usace.army.mil)

The Town of Edgartown, Town Hall, P.O. Box 5158, Edgartown, Massachusetts 02539, has requested a Corps of Engineers permit under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act to dredge the entrance channel to Caleb's Pond and dispose of the material on nearby beaches in Edgartown Harbor. The town is proposing to dredge a 25' x 1750' channel to -4' mean low water. Approximately 7300 cubic yards of material will be removed by hydraulic method and disposed of at Areas B and E in Edgartown Harbor, with Areas C and D designated as optional disposal sites.

The town has stated that the channel was last dredged in the early 1900s. The primary goals are to improve shellfishing access for local and seasonal recreational and commercial fishermen and to provide a "hurricane hole" for local vessels. Another goal is to provide beach nourishment for storm damage and flood control. The town believes that piping plovers may benefit from the beach nourishment and that shellfish may benefit from improved water quality resulting from increased tidal flushing. Although Caleb's Pond has not had a commercial set of scallops since 1985, it is hoped that the dredging will improve conditions for this species. In order to restore the scallops, the Shellfish Department will seed the pond with scallops once the dredging is complete. A dredge window from October 15 to February 15 is proposed to protect the anadromous fish run at Mattakessett.

The alternate disposal sites listed on the enclosed sheet entitled "Caleb's Pond Dredging Disposal Location Alternatives Chosen for Further Analysis" and shown on the accompanying locus entitled "Alternatives Analysis" were investigated. The town stated the sites were non-practicable for the reasons listed on the enclosure. The Shellfish Constable has stated that shellfish were harvested from the proposed dredge footprint. The dredged material has undergone physical and chemical analysis. It is our preliminary determination that the material is acceptable for disposal at this disposal site.

This project will have an adverse effect on Essential Fish Habitat (EFH) for a variety of Federally managed species including, but not limited to, winter flounder, long finned squid, summer flounder, and scup. Habitat at this site can be described as a subtidal area with medium-grained sand and intertidal and subtidal areas with bottom sediments comprised of poorly graded sand. Loss of this habitat may adversely affect the above species in a variety of ways. The District Engineer has made a preliminary determination that site-specific impacts may be substantial. Accordingly, the Corps of Engineers will submit an expanded EFH assessment to National Marine Fisheries Service, who in turn will provide conservation recommendations to the Corps. The Corps will coordinate with the applicant regarding implementation of these recommendations. EFH consultation will be concluded prior to the final decision.

This project is located on the USGS Edgartown, Mass. quadrangle sheet at UTM coordinates N 4581600 and E 374200. The work is shown on the enclosed plans. The project's location and Nourishment Areas B, C, D and E are shown on the plans entitled "PROPOSED DREDGING PLAN IN CALEB'S CREEK, EDGARTOWN HARBOR", on Sheets 1, 5, 6, 8, 9, and 10 of 11, and last revised "3/17/99". The dredge work is shown on the plans entitled "APPLICATION BY: TOWN OF EDGARTOWN", on four sheets, and dated "AUG. '99". Nourishment Area B is shown on the plans entitled "BEACH NOURISHMENT: AREA "B" ", on two sheets, and dated "AUGUST 1999".

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Mr. Greg Penta at (978) 318-8862, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

SEE NEXT PAGE FOR  
DETAILS OF EVALUATION  
FACTORS

Karen Kirk Adams  
Chief, Permits & Enforcement Section  
Regulatory Branch

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity in the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties listed in, or eligible for listing in, the National Register of Historic Places, and no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.

Pursuant to the Endangered Species Act, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice.

The following authorizations have been applied for, or have been, or will be obtained:

- (X) Permit, License or Assent from State.
- (X) Permit from Local Wetland Agency or Conservation Commission.
- (X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**

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**NAME:**  
**ADDRESS:**